SUPREME COURT, U. S.

Supreme Court, U. S.
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MICHAEL RODAK, JR., CLERK

No. 73-875

In the Supreme Court of the United States

OCTOBER TERM, 1973

ANTHONY G. FORGIONE, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

ROBERT H. BORK,
Solicitor General,
Department of Justice,
Washington, D.C. 20530.

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Petitioner challenges the construction and validity of 21 U.S.C. 622, the statute under which he was convicted.

After a jury trial in the United States District Court for the District of Massachusetts, petitioner was convicted on three counts of a ten-count indictment charging him with having accepted a gift, money or other thing of value from a person, firm or corporation engaged in interstate commerce, in violation of 21 U.S.C. 622. He was sentenced to concurrent one year terms of imprisonment. The court of appeals affirmed (Pet. App. A).

The legal issues raised in the instant case are identical to those involved in *United States* v. *Seuss*, 474 F.2d 385 (C.A. 1), certiorari denied, 412 U.S. 928, which also involved a virtually identical fact pattern. Petitioner,

a meat inspector for the United States Department of Agriculture, on several occasions accepted meat products as a gift from Colonial Provision Company, Inc., a Boston meat processing company engaged in interstate commerce. In responding to petitioner's contentions herein, we rely upon the opinion of the court of appeals in *Seuss, supra,* and in this case, as well as our Memorandum in Opposition to the petition for a writ of certiorari in *Seuss* (No. 72-1266).[1]

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

ROBERT H. BORK,
Solicitor General.

FEBRUARY 1974.

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[1]A copy of our Memorandum in *Seuss* is being sent to counsel for petitioner.